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Legal & Regulatory Group

February 11, 2002

Docket Management Room (PL-401)
National Highway Traffic Safety Administration (NHTSA)
400 Seventh Street, SW
Washington, DC 20590

Re: Motor Vehicle Safety; Acceleration of Manufacturer's Remedy
Program; 49 CFR Parts 573 and 577; Docket No. NHTSA-
2001-11108

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) represents 20,000 franchised automobile and truck dealers who sell new and used motor vehicles and engage in service, repair and parts sales. Together they employ in excess of 1,000,000 people nationwide, yet more than 60% are small businesses as defined by the Small Business Administration.

Late last year, NHTSA requested comment on a proposed rule on the acceleration of defective or noncomplying vehicle remedy programs. 66 Fed. Reg. 64087, *et seq.* (December 11, 2002). This proposal responds to a provision in the Transportation Recall Enhancement, Accountability, and Documentation Act, which appears to be aimed at recalls where potential delays involving the remedy of serious defects or noncompliances likely will result in an unacceptable risk of serious injury or death. 49 USC §30120(c). Clearly, this discretionary authority was designed to be exercised only in the most extreme of rare circumstances.

NHTSA itself states, "The agency expects that in the vast majority of recalls, this provision will not be invoked, primarily because in most cases manufacturers implement and complete their remedy programs within reasonable times under the circumstances." 66 Fed. Reg. 64088. Partly, this is a reflection of the many years of experience vehicle manufacturers, parts manufacturers, and dealers have handling recalls. Also, existing mandates such as recall program reporting and the "replace or refund" hammer serve to keep recalls timely.

NHTSA should limit the exercise of its "acceleration" to circumstances where:

1. Remedy implementation without acceleration likely will result in an unacceptable risk of serious injury or death.

2. Acceleration can be reasonably and safely achieved by expanding the sources of replacement parts, the number of authorized repair facilities or both.

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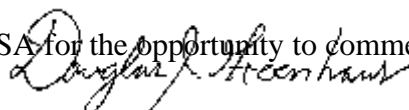
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Setting a high standard for remedy acceleration is warranted given the historically rare justification for doing so. In an ideal world, dealers would prefer that they and their customers be notified about a recall only once the program is ready to implement (e.g., parts are on dealership shelves, technical information has been disseminated, etc.). Nevertheless, dealers understand that most recall programs involve lead time to design, produce, test and distribute replacement parts and/or to design, test and distribute repair information. The last thing manufacturers, dealers, or customers want is any thing less than a good (and safe) fix.

Expanding replacement parts sources may sound feasible at first. However, in conducting its analysis, NHTSA must consider the safety risks associated with such expansions. While some original equipment (OEM) parts may have functional equivalents in the aftermarket, most do not. Moreover, if an OEM part involves a design defect or noncompliance, there is some chance its aftermarket equivalent will also. In addition, many aftermarket replacement parts, while arguably "equivalent," are not of like kind and quality.

Except for the simplest of repairs, expanding the number of repair facilities may also not prove to be a prudent option. For example, dealerships are suited uniquely to implement recalls given their experience in doing so, the manufacturer-specific training of their technicians, the manufacturer-specific tools they use, their extensive vehicle-specific parts inventory, and their direct communications links to the manufacturers. Only in extreme emergency situations involving both simple (if not fool proof) repairs and manufacturers with a small number of dealers should facility expansion even be considered.

On behalf of NADA, I thank NHTSA for the opportunity to comment on this matter.



Respectfully submitted,

Douglas I. Greenhaus

Director, Environment, Health and Safety